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THE SENATE'S LONE HAND

Various Nominees Are Confirmed Promptly.

The "Greatest Legislative Show on Earth" gave its fourteenth performance yesterday with an unvaried program as an attraction.

The curtain rose promptly at 2 o'clock, and after the rendering of the customary overture Senator Achi moved the suspension of the rules, in order to take up the Governor's appointments.

James H. Boyd, for the office of Superintendent of Public Works, was the first appointment considered, and on motion by Senator J. T. Brown, was approved.

W. H. Wright for Treasurer and E. S. Boyd for Land Commissioner, were also on the motion of J. T. Brown approved.

"Dr. C. L. Garvin, member of the Board of Health," was the next item called out by the clerk.

A dead silence followed this announcement, which was finally broken by Senator Cecil Brown, moving to approve of the appointment.

"Oily Bill" was on his feet in an instant, and shouted, "I move to reject the appointment," which was "kokuaed" by nearly all of the Independent members of the Senate.

Cecil Brown was then recognized, and wanted to know the reason for wanting to reject the appointment. As far as he was personally concerned, said Mr. Brown, he did not know Dr. Garvin except by reputation. The doctor had arrived during the cholera epidemic, and had rendered valuable service in stamping out that dread disease. If the Senate intended to adopt such tactics by rejecting the appointments of good men on the Board of Health they would not have any Board of Health at all. "In the States," continued Mr. Brown, "it was customary to approve all the reputable appointments made by the President or Governors, and those that were turned down owed it to their unfitness for the position."

"It is not an easy matter for the Governor to fill up vacancies on the Board of Health, because the members of the board would necessarily have to neglect a great deal of their practice. If there is any good reason advanced as to why Dr. Garvin should not be approved I would vote to reject, but until such proofs are produced I will sustain the Governor's appointment."

Senator Carter referred the opposition to section 80, chapter 3 of the Organic Act, which governs the power of the Governor in appointing the members of the Board of Health.

It was the majority in the Senate who turned down the Governor's appointees at the last regular session, said Senator Carter, and for no reason at all except that they were appointed by the Governor. If the majority had only changed the laws doing away with the powers of the Board of Health there would not be such a serious objection to turning down the appointments, there would then be no necessity of having any Board of Health under those conditions. It was too late in the day, however, to make any changes in the law; the golden opportunity has passed by.

Mr. Carter said a prominent physician had told him that if the Legislature turned down any more members of the board, there would be a hard time to get any one to take their places. Any physician of standing would not accept an offer to serve on the board if they had such a Legislature to deal with.

"What would happen to the Kakaako district if there was no Board of Health?" continued Mr. Carter. "Disease would become rampant, and the people of Honolulu would have to go through the horrors of another epidemic. Members of this Senate must remember that without the board the city's garbage would not be collected, and a pretty condition of affairs would exist. Who would perform the work?" he asked.

"The Public Works Department," answered Senator Russel.

Senator Carter contradicted this statement, and said the entire garbage system was under the control of the Board of Health, and it was too late in the day for any change to be made in the laws in order to switch the work over to some other department. Just because "Oily Bill" wanted to reject the appointment was no reason why it should be done.

"As for my esteemed contemporary (Dr. Russel), he no doubt thinks that the Attorney-General or some other could perform this work of collecting garbage." Mr. Carter then inquired of the "Siberian" statesman if he thought that an appropriation for the collection of garbage could be placed in the Public Works Department schedule. If the superintendent of that department would draw a warrant for such work, would the auditor allow it? If the member from Hilo had such thoughts in his head it showed he was sadly deficient in his conception of the law.

At this juncture "Oily Bill" jumped to his feet and shouted, "I call the member to order. He has talked over

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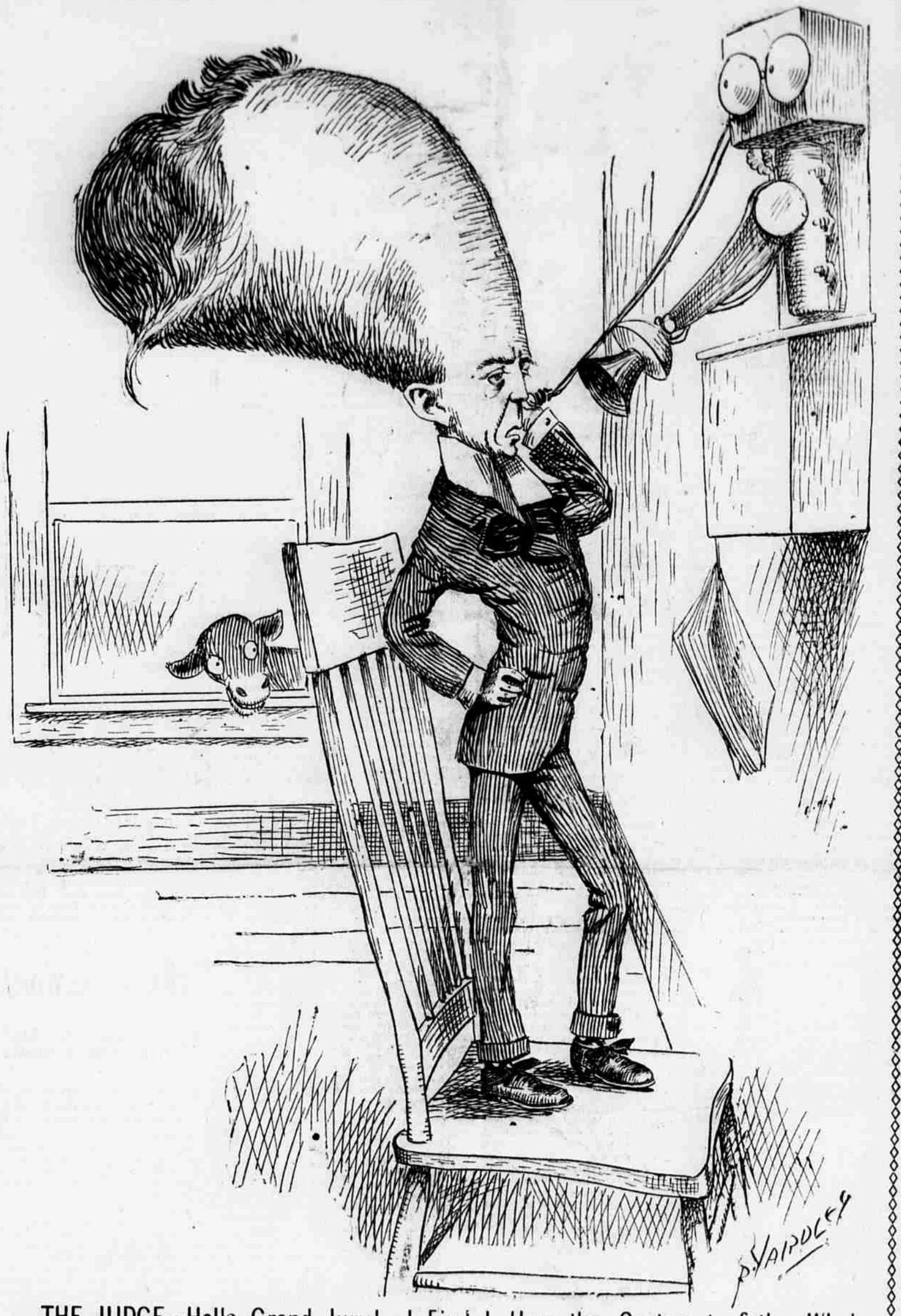
MORE CONTEMPT.



THE JUDGE---Hello Grand Jury! I Find I Have the Contempt of the Whole Community. I Order You to Indict Everybody.

MURDERER MUST HANG

Supreme Court Has Rendered Decision.

The Supreme Court yesterday rendered decision in the case of Fugihara Orieman vs. the Territory of Hawaii; ordering that the plaintiff be re-sentenced to death.

The Japanese was convicted of murder in the first degree at the July term of the First Circuit Court at Hilo last year, and sentenced to capital punishment.

In sentencing the prisoner Judge Little appointed September 21, 1900, as the day of execution. A stay of execution was granted under a writ of habeas corpus, which was denied on its return.

Subsequently the case was appealed to the Supreme Court on a writ of error, and was continued from the December to the March term.

The opinion given yesterday of the Supreme Court is unanimous, and is written by Justice Galbraith. Seventeen errors were assigned by the petitioner in his writ, but only three of these were argued. In regard to this Justice Galbraith says: "This court cannot be expected to wander out into the realm of investigation in search for visionary errors or to presume that errors might have occurred in the course of the trial."

One of the errors argued was a matter of the rules of court which the court declines to consider, it not having appeared in the original petition. Another matter was the following: "That the grand jury returning the indictment against petitioner was not drawn in the manner provided by law, and was therefore an illegal body." The comment upon this is as follows:

"The general rule is that the formalities for the selection, organization and doings of the grand jury are things separable from the judicial jurisdictions and other like fundamentals; so that defendants can waive irregularities therein, and they do waive any one whereof they have knowledge if they fail to object thereto promptly, or at the first step in the cause permissible."

The record does not disclose that the defendant sought to avail himself of any possible irregularity in the drawing of the grand jury or the competency of any of its members prior to the commencement of the proceedings in this court. Under the above rule he certainly waived any rights he may have had to urge this objection at this time.

"The third objection is as to the form of sentence, because it fixed a time and place. This is not at variance with any Hawaiian law, but authorities are against the practice. The question is now regulated by statute in England and in the majority of States in the United States.

"Yet even where practice was to fix time and place in the sentence, it did not prevent the execution from being carried out otherwise in a case where it failed at the originally stated time and place."

The syllabus of Judge Galbraith's opinion is as follows:

"Objections to the manner of drawing and empanneling the grand jury returning an indictment must be presented and urged to the court at the first opportunity, or they will be deemed waived.

"Every presumption is in favor of the regularity of the proceedings of the trial court. When the record is silent as to the manner of drawing the grand jury this court will presume that it was regularly and properly drawn.

"The time and place of execution are by law no part of the judgment. There is no statute in this Territory authorizing the court in pronouncing the death sentence to name the place and day of execution.

"Where the court in pronouncing the death sentence names the place and day of execution, the sentence is not thereby rendered void. That part of the sentence in excess of the authority of the court being separable from the legal part may be stricken out, or the prisoner may be taken before the court and re-sentenced."

The opinion concludes:

"We are bound to conclude from the record before us that the petitioner was legally and rightfully convicted.

"Now that the day of execution named in the sentence has passed, it seems its presence there can in no way prejudice any right of the petitioner. But in order to avoid any possible question of the regularity of the proceedings in the execution of the greatest punishment known to the law, it is deemed advisable that the petitioner should be re-sentenced. This may be done either in this court or in the Circuit Court. As a matter of practice we prefer that it should be done in the Circuit Court.

"We therefore remand the record to the Circuit Court of the Fourth Circuit of the Territory of Hawaii, and direct that the petitioner be taken before said court, at a regular or special term thereof, and re-sentenced to suffer the punishment prescribed by law for the crime whereof he has been duly convicted, and that in the meantime the petitioner be kept in close confinement by the high sheriff."

PROF. STUBBS' VIEWS ON THE LABOR QUESTION ON THE ISLAND PLANTATIONS AS GIVEN IN AN OFFICIAL REPORT

It is difficult to treat this subject in a short article, and yet no study of the agricultural conditions of the islands would be complete without reference to this important factor. For a half century the resources and ingenuity of the planters of these islands have been taxed to their utmost in devising the best means of procuring laborers suitable for their work. Special commissioners have been dispatched to distant parts of the globe for the purpose of securing the desired immigration. Earnest efforts have been made in the way of carefully prepared reports and extensive correspondence. Large sums of money have been expended for costly voyages in the hope of obtaining permanent additions to the population of the islands which would develop and maintain the growing agriculture. And yet the struggle continues. From the first arrival of coolies, in 1852, up to the present time there has been no cessation in the arduous efforts to obtain an adequate supply of labor for the plantations. The Royal Hawaiian Agricultural Society, established in 1850, issued a circular stating that "the introduction of coolie labor from China to supply the places of the rapidly decreasing native population was a subject of great importance." In 1852 the first introduction of coolies was made and the experiment was satisfactory. They proved able and willing laborers and quieted for a while all apprehension of future trouble in obtaining labor. Other cargoes were soon sent for and received.

But while the coolies were and are good workers it was soon discovered that laborers imported for plantations could not be relied upon as permanent settlers and homeseekers, and were therefore, from a state standpoint, very undesirable immigrants. The planters wanted laborers for profit; the King desired permanent settlers for the benefit of the country. To bring in immigrants required funds, which the former alone could supply, but they were unwilling to burden themselves with the trouble and expense of families. Hence the plans of the King failed. In 1859 a few South Sea Islanders were landed on Kauai to work on a plantation under contract. They resembled Hawaiians, were educated and had Christian names. It was hoped that this beginning would be the means, ultimately, of repopulating the islands and supplying the needed labor, but the hope was never realized, as will be shown later. In 1863 another cry for importation of labor was heard, but the inquiry was everywhere made: Whom and how? The importation of white men as laborers was inadmissible; ditto with negroes. The coolie was an undesirable citizen and as a laborer of no great value. Private planters would import only men, rejecting women and children. Laborers could not be obtained from Pacific islands; therefore resort must again be had to China.

In the meanwhile sugar production increased rapidly. New plantations were opened and more labor demanded. The statesmen decried plantation morals, due to the large excess of men over women; they deprecated the class of coolies imported, and appealed to the patriotism of the planters to aid the Government in introducing carefully selected agriculturists.

A plan was suggested of introducing to Hawaii certain races of the Malay Archipelago, but the Government was without the means of consummating so favorable a project. In this imperative demand for labor the only alternative left was to introduce more coolies, which was done. The "Chinese coolie system," as it was called at this time, had an odium attached to it almost equal to that of the slave trade. It was reported that men had been actually purchased from the mandarins for a few dollars each, while the contractors picked up vagrants and sold them at public auction in the markets of Peru and elsewhere. The horrors of the slave trade were in some instances repeated and the deported coolies often succumbed to brutal privations and hard-

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